




# National Rural Electric Cooperative Association

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May 15, 2000

The Honorable Tom Bliley  
Chairman  
U.S. House of Representatives  
Committee on Commerce  
Room 2125  
Rayburn House Office Building  
Washington D.C. 20515-6115

Dear Chairman Bliley:

Thank you for your interest in the opinions of the National Rural Electric Cooperative Association with respect to H.R. 2944, the Electric Competition and Reliability Act. As you know, the National Rural Electric Cooperative Association (NRECA) representing 32 million electric consumers in 46 States supported the action of the Subcommittee on Energy and Power to bring H.R. 2944 to the full Committee on Commerce and would support reporting H.R. 2944 from the Committee on Commerce with no changes. However, if changes are to be made, please consider the following answers to your questions.

- 1. NRECA's letter states your position that the industry's competitive structure should not be mandated by a federal agency yet you request that Congress "eliminate state provisions that prevent consumers from using a cooperative . . ." Please elaborate on what issues you believe should be addressed Federally and what issues should be left to State or local authorities.**

NRECA believes that the federal government must give States enough latitude to judge when and if retail wheeling is beneficial for the consumers in the State. However, without enacting a "date certain" mandate or incentives, Congress and the Administration should assure that in those State jurisdictions where retail wheeling is installed, it is implemented smoothly with regard to several issues that must be addressed at the national level.

Congress can ensure that retail wheeling is implemented more smoothly by guaranteeing consumers the right to aggregate their loads and their right to join or form a cooperative to meet their competitive energy needs. Congress should also guarantee that consumers can ask their cooperative to provide them with the same services that they could receive from any other electric utility in their State.

## Aggregation

The restructuring of the electric utility industry poses significant risks for rural and residential consumers. If restructuring is to bring consumers the benefits of competition, there must be a number of different competitors seeking to serve the same customers. Yet, in the States that have already restructured, very few competitors are willing to serve rural, residential or small business consumers. In Massachusetts and Rhode Island there are few if any competitors willing to serve residential customers, and not one competitive supplier in Pennsylvania is willing to serve consumers in the cooperatives' service territories even though the cooperatives are fully open to competition.

Why is this happening? Because it costs more to recruit, keep, and serve residential customers. They simply are not as profitable to serve as C&I customers and investor-owned utilities and power marketers want to serve the most profitable customers.

In an internal newsletter for employees Cinergy, a large investor-owned utility, the president of Cinergy's Energy Services Business Unit stated:

After deregulation is a reality and we no longer have an obligation to serve, we can't afford to hang on to loss customers and even marginally profitable ones. As any company in a competitive environment, we'll focus our resources on those customers who will give us the targeted rate of return expected by our shareholders.

Recently, DTE Energy Company, the parent company of Detroit Edison, announced that it was departing from the New Jersey and Pennsylvania electricity markets "because the 'competitive residential and small commercial mass market is not profitable in this early state of development.'" Those consumers which had selected DTE Energy Company's affiliate as their electric supplier would be given 90 days to select another provider or be returned to their original supplier.

We have seen the same problem arise in other industries. Airline deregulation, for example, has brought lower prices for consumers that fly into larger cities served by multiple carriers. But, consumers flying into or out of cities served by only one or two providers, including most rural communities, now pay considerably more for less service. There are far fewer flights into such communities, and little jet service.

Legislative language will provide consumers the ability to help themselves by aggregating their loads and by joining or forming their own electric cooperatives. Aggregation language also gives the right of governance and private ownership of the utilities that are created solely to benefit consumers.

Electric cooperatives, as consumer-owned utilities that provide service at-cost without a profit mark-up, have long provided service in rural areas where investor-owned utilities were unwilling to serve. When the market would not provide for them, consumers provided for themselves.

That competitive option is important today not just in rural areas, but everywhere in the country. In New York City, for example, housing cooperatives have joined together and formed the 1<sup>st</sup> Rochdale Electric Cooperative to increase the buying power of residential consumers in a competitive market place. In California, both the agricultural cooperatives and the small oil producers have formed their own electric cooperatives to meet their own energy needs.

Also, when Citizens Utilities decided to get out of the electric business in Kauai, its former consumers formed their own cooperative to bid against other utilities for Citizens' assets. They decided that an out-of-state utility could not provide their businesses and homes with affordable and reliable electric service as well as a locally owned and governed cooperative.

Other entities also aggregate consumers. Municipalities are able to aggregate residents, businesses, and government buildings. The press has reported that a trade association plans to aggregate its members. Electric cooperatives must be allowed the same opportunities as other entities to aggregate consumers.

#### Diversification

Just as it is important that consumers of electricity like those in New York City, California, and Kauai should be able to form or join cooperatives, it is also important that consumers should be able to ask their cooperative to provide them the same services at-cost they could purchase from other utilities in their State.

Today many profit-making, investor-owned utilities are permitted to provide their consumers with a wide range of services, and will be able to package and market electricity and other services together to consumers in a restructured world. For example, a consumer could buy their long distance, gas, electric, and cable service from a single company. They could have a single bill and a single customer service number. If PUHCA is repealed, even the largest investor-owned holding company systems utility will be able to provide diversified services.

Because of restrictive State laws, however, some cooperatives are prohibited from offering more than one service. In a restructured environment, cooperatives' members could lose the benefits from packaged service offerings and the cooperatives would be handicapped in their efforts to compete with the investor-owned utilities for new consumers.

NRECA is not asking for special treatment. NRECA is not asking that cooperatives be permitted to provide services no other utility is permitted to provide. NRECA is asking only that each cooperative be permitted to provide the same services that other utilities within its State may provide.

- 2. Your letter seems to suggest that Congress should have some role in ensuring competitive retail electricity markets. Is it NRECA's position that Congress should only intervene in State retail competition plans when those State retail**

**competition plans seem to adversely impact cooperatively-owned utilities? If so, who should determine whether a cooperatively-owned utility has been adversely impacted?**

NRECA believes there is a need for congressional action where consumer interests could be adversely impacted by the restructuring of the electricity industry. As I discussed in response to Question 1, NRECA believes that consumers can protect themselves from many of the risks arising from restructuring if Congress ensures that they are permitted to aggregate their loads, to join or form a cooperative to meet their competitive energy needs, and to ask their cooperative to provide them with the same services that they could receive from any other electric utility in their state.

- 3. NRECA's letter states that "language in H.R. 2944 that 'grandfathers' state laws should be modified to prevent the exclusion of cooperatives." Could you explain this statement further? Is NRECA suggesting that Congress should be selective in which State programs are to covered by a "grandfathering" provision? Should there be some sort of competitive "litmus" test that is applied to State programs in order for them to qualify under a "grandfathering" provision? If so, what should that litmus test be and who should decide it?**

Electric utility restructuring will consist of a combination of federal and state laws. The federal government's role should be to assure that electric cooperatives are afforded the same ability to compete as all other market participants.

Prior to markup, NRECA had been very pleased that H.R. 2944 not only guaranteed all consumers the right to aggregate but also ensured that consumers could choose a cooperative to serve their needs. As I explain in response to question number 1, it is critical that consumers be permitted to aggregate.

NRECA was disappointed, therefore, that the "grandfathering" language added to H.R. 2944 at markup that limited this right for consumers. While NRECA supports the inclusion in H.R. 2944 of language grandfathering State restructuring legislation, NRECA believes that the grandfathering provision should not undermine the rights of consumers to aggregate their loads; to join or form a cooperative to meet their competitive energy needs; and to ask their cooperative to provide them with the same services that they could receive from any other electric utility in their State.

- 4. Your letter states "If the Congress eliminates PUHCA, it should also eliminate state constraints on electric cooperatives' ability to diversify. Could you explain in greater detail how these issues are related? Such action would preempt State laws. Please comment on NRECA's support for preemption.**

Proponents of PUHCA repeal argue that PUHCA imposes irrational limitations on the lines of business in which some companies can engage solely because of the companies' corporate structure. Those limitations, they argue, should be eliminated because they deny consumers and shareholders substantial efficiencies of scope.

Because regulators have limited investigatory and enforcement resources, NRECA believes there are legitimate reasons to put restrictions on geographic size, corporate structure, and range of activities for a handful of the nations' largest utility holding company systems. Nevertheless, the logic behind PUHCA repeal proposals applies perfectly to electric cooperatives. State laws that restrict the range of activities in which cooperatives can engage solely because of their corporate structure are irrational and cost consumers and cooperatives' consumer-owners substantial efficiencies of scope.

At a practical level, when PUHCA is repealed, many investor-owned utilities will be permitted to provide their consumers with a wide range of services, and will be able to package services together as a competitive offering. For example, a consumer could buy their long distance, gas, electric, and cable service from a single company. They could have a single bill and a single customer service number.

Because of restrictive State laws, however, many cooperatives could be prohibited from offering more than one service. Cooperatives' members would lose the benefits to be had from packaged service offerings and the cooperatives would be handicapped in their efforts to compete with the investor-owned utilities for new consumers. Repeal of PUHCA will further tilt the competitive market away from the ability of consumers to provide services through private, consumer-owned businesses unless our proposed counter-balancing measures are enacted.

NRECA is not asking for special treatment. NRECA is not asking that cooperatives be permitted to provide services no other utility is permitted to provide. NRECA is asking only that each cooperative be permitted to provide the same services that other utilities within its State may provide.

**5. NRECA suggests that PUHCA should only be eliminated in states where retail competition exists. Please submit legislative language that would accomplish this.**

NRECA believes that the language in H.R. 2050, § 202, sponsored by Congressmen Largent and Markey, is a good start for accomplishing this goal.

**6. Please explain further why you are opposed to the merger provisions of H.R. 2944. How do the merger provisions impact cooperatively-owned utilities?**

H.R. 2944 continues to leave merger review authority for electric cooperatives with Rural Utility Service (RUS)-financing with this agency, which NRECA strongly supports. Mergers among electric cooperatives result in utilities that incorporate competitive efficiencies and yet remain responsive to their consumer-owners. Mergers involving electric cooperatives never occur unless it is supported by their consumer-owners. RUS merger review authority adds a second layer to this effective process.

Conversely, legitimate market power concerns exist regarding the mergers among investor owned utilities. According to the October 1999 edition of *Electric Light & Power*, the top 10 investor owned utility holding companies sold approximately 28 percent of the electricity sold by US utilities in 1998. Also, the mega-merger between

American Electric Power Company, Inc. (AEP) and Central and South West Corporation (CSW) will result in a company with the capacity to serve 4.7 million customers in eleven states, from Virginia and Michigan to Oklahoma and Texas.

Section 401 of H.R. 2944 establishes a strict deadline of 180 days for FERC's review of mergers. Some of these mergers involve international companies with hundreds of subsidiaries and affiliates, billions of dollars of assets in a dozen or more States, and millions of consumers. The time limits imposed by H.R. 2944 would not give FERC sufficient time to evaluate the impact that such mergers would have on the \$220+ billion electric industry. While FERC can – and does – approve most mergers in considerably less than that time, 180 days is not enough in the largest and most complicated mergers – the exact mergers most likely to threaten the public interest.

NRECA agrees with the Department of Justice and the Federal Trade Commission that it is in the public and consumer interest for FERC to have full authority to conduct a public review of mega-mergers between public utilities that could eliminate or limit competition in the marketplace. Without such a review, all participants in the market for electric energy will suffer, including cooperatives and their members. Excessive consolidation in the electric utility industry would lead to higher prices, worse service, and decreased reliability for all consumers.

The Committee should understand that electric cooperatives do not oppose all utility mergers. Mergers can be a legitimate business strategy to respond to changing markets and changing market conditions. Since 1996, FERC has given its blessing to approximately 30 utility mergers and many more are pending. NRECA has requested hearings in only two of those proceedings.

In fact, NRECA has supported the application of loosened review requirements for mergers between smaller entities that could increase competition in the market place by creating a new company that can compete more effectively without being large enough itself to exercise market power.

NRECA would be happy to work with the Committee and Congress to develop language that would achieve the proper balance between protection of the public interest and the encouragement of efficiency in the industry.

- 7. Please explain your statement that “Congress should ensure that electric cooperatives can work together to serve regional or national accounts.” Is it necessary to include language in Federal legislation to assure that this can be accomplished? If so, please submit specific language.**

Electric cooperatives are locally-based, consumer-owned private companies. Cooperatives have a reputation for high levels of reliability, customer service and providing electric service at cost, without profit. There are national and regional companies that are asking that cooperatives provide these services on a regional or national basis. These customers can be accommodated only by cooperatives working together to provide this service. Antitrust laws can make such alliances difficult creating a bias toward merging into even larger utilities to compete. There is a need to address

this concern and NRECA would suggest that there be a legislative finding or report language recognizing that such alliances should be encouraged where competition would be enhanced.

**8. Other than your reference to mergers, your letter is silent on the issue of market power. Please explain NRECA's position on the inclusion of market power provisions in Federal restructuring legislation.**

H.R. 2944 does address some, but not all, of NRECA's market power concerns. The bill keeps in place a number of the critically important counter-forces to market power concentration of the profit-making, investor owned utilities. These counter forces comprise continued support for the Power Marketing Administrations (PMAs) and RUS which provide "at-cost" wholesale electricity and essential financing to electric cooperatives.

Existing federal processes appear insufficient either to prevent concentration of market power or to protect consumers and competitors from the exercise of market power. There is a critical need for an effective federal statute to check the potential accumulation and abuse of market power in the electric utility industry. Congress should, therefore, take appropriate action to prohibit market concentration that would stifle competition in the electric utility industry and work against the best interest of consumers.

We oppose the repeal of the Public Utility Holding Company Act (PUHCA). If repealed, Congress should replace PUHCA with modern legislation that takes a practical approach to controlling market power, focusing on the substance of consumer protection and market power abuses, as well as on the acquisition of undue market power through ownership and affiliation. Such regulation should give federal regulators an array of tools that they can use to protect consumers and enhance competition in electric markets. If circumstances require it, regulators should have the authority to impose structural solutions that will prevent investor-owned utilities from accumulating undue market power, or remedy already existing market power that threatens competitive markets.

Congress should do the following:

- Guarantee all consumers the right to join together and purchase power from a cooperative.
- Remove outdated and unnecessary legal barriers that make it more difficult for cooperatives to compete, including unnecessary restrictions on the lines of business in which cooperatives can engage.
- Refrain from imposing costly new layers of federal regulation on electric cooperatives, including expanded environmental regulation and new regulation by the Federal Energy Regulatory Commission (FERC).

- Encourage regional transmission organizations and removing artificial barriers to full participation (see response to question 9);
- Preserve FERC's authority to regulate public utilities' wholesale sales of electric power; and
- Require FERC, the Department of Justice, and the Federal Trade Commission to conduct a joint study of market power issues in the electric utility industry and to come up with suggestions for additional legislation.

**9. FERC issued Order 2000 urging the formation of voluntary Regional Transmission Organizations (RTOs) after your letter was drafted. What is your organization's position on that rule? Do you believe that there is a need for independent operation of the interstate transmission grid to assure competition in wholesale markets?**

NRECA has submitted comments to FERC substantially supporting the RTO rule as proposed and as recently finalized. Since the rule was issued, NRECA and its members have actively participated in the five regional collaborative RTO workshops during March and April 2000. NRECA agrees with FERC that independence must be the bedrock upon which RTOs are built and operated.

This year NRECA's membership, after careful debate, determined that RTOs, if fully independent and properly designed, can substantially mitigate the ability of transmission owners that also own generation (directly or through an affiliate) to influence the market for electric energy and to potentially discriminate against competitors. Because an effective RTO can operate the transmission system on a regional basis to maximize efficiencies, it can also significantly improve reliability and reduce the potential for power market instability that can lead to price spikes. Accordingly, NRECA supports the formation of RTOs for all transmission owners consistent with the following list of elements:

1. RTOs should have *fully independent* governance, operating and staffing structures.
2. RTOs should have full authority to control or to direct the control of all of the transmission facilities they operate.
3. RTOs should cover a region large enough to internalize loop flows and ensure reliable operation of the regional transmission system at levels at least equal to those experienced today. RTOs should be placed in operation only after stable operations can be assured during start up and initial operation.
4. RTOs should operate Open Access Same-Time Information Systems (OASISes).
5. RTOs should calculate Available Transfer Capability (ATC), Transmission Reliability Margins (TRM), and Capacity Benefit Margins (CBM) for all transmission facilities under RTO control.
6. RTOs should act as NERC (North American Electric Reliability Council) "Regional Security Coordinators."
7. RTOs should be required to offer to provide all ancillary services, and to do so at cost-based rates unless and until truly competitive markets for those services develop. Customers should be permitted to self-supply ancillary services if they wish to do so.



8. RTOs should conduct the regional transmission system planning process, and its goal should be to ensure that all necessary transmission additions and upgrades are constructed. The planning criteria must be established to ensure all customers are treated in a consistent manner.
9. RTOs must provide an acceptable level of service (including reliability, voltage support, stability, power quality, etc., as measured by the impact on the end use consumer) to all customers using the transmission system.
10. Preexisting transmission and bundled power supply agreements entered into by wholesale customers with FERC (Federal Energy Regulatory Commission) -regulated investor-owned utilities and others before FERC's acceptance of the transmission provider's Open Access Transmission Tariff (OATT) should be "grandfathered" and honored on their terms; transmission customers holding OATT service agreements should have the option to convert them to RTO service.
11. Regions forming RTOs must address and satisfactorily resolve the legal, financial, tax and other issues raised by the participation of transmission-owning rural electric co-ops, public power entities and governmental entities.
12. RTO transmission rates and tariffs should mitigate cost shifting and take into account the specific needs and characteristics of each affected region, including costs of operation, debt and other expenses, using the same effective return on investment to all participating transmission owners and recognize the goal of a single non-pancaked rate structure to cover all customers.
13. All resources should be committed to RTO control and operation based on function performed by that particular facility, without exclusion of facilities based on design voltage capacity alone.
14. Conditions and terms (connection requirements) associated with providing service must be developed with consideration of the location of the service and the needs of the end use customers.
15. RTO transmission rate methodologies should be understandable and should recognize the primacy of regional reliability, and should not simply auction constrained transmission capacity off to the highest bidder.

**10. H.R. 2944 contains provisions addressing the reliability of the transmission grid. Do you believe enactment of those provisions will enhance grid reliability? Please elaborate.**

NRECA largely supports § 201 of H.R. 2944. The creation of the North American Electric Reliability Organization (NERC) as a single national self-regulating reliability organization with the authority to set mandatory reliability standards applicable to all users of the bulk transmission system is critical to ensure continued reliability of the interstate transmission grid in a competitive environment. There continues to be some dispute as to the exact role of the States with respect to bulk system reliability, but NRECA believes that the stakeholders should be able to reach agreement on that issue.

**11. In the attachment to your letter you comment on the incentive pricing provisions of H.R. 2944. Does the elimination of that section and the new language inserted in its place change your position? If so, please state NRECA's new position.**

NRECA is concerned about the language in § 105 of H.R. 2944, which requires FERC to encourage "innovative pricing policies," and authorizes FERC to permit the charging of negotiated rates for transmission services without regard to costs."

The monopoly status of transmission, including transmission operated by an independent RTO, must be recognized at the outset. Transmission rate structure and associated cost of service, therefore, should be developed using traditional cost of service regulatory principles. RTOs and other transmission owners should not be eligible for "incentive ratemaking," "performance-based ratemaking," or "light handed regulation" that would have the effect of increasing rates to transmission customers without concomitant benefits.

Proponents of incentive rate mechanisms argue that new transmission investment is needed soon if the United States is to continue to enjoy reliable electric service. Without incentive rates, they say, utilities will not be able to attract the capital they need to build that transmission.

It is true that the United States needs new transmission investment. To help attract that investment, FERC must ensure utilities a sufficient rate of return (ROR) on their capital to attract that investment. FERC's, traditional cost-of-service ratemaking principles are adequate to address that need. Cost-of-service rates include a "reasonable" ROR and a "reasonable" ROR is by definition an ROR large enough to attract investment. An appropriate cost-of-service rate, therefore, should be enough to address the reliability concerns.

High "incentive" rates will narrow markets and reduce competition. The higher transmission rates are, the fewer generators outside a local market will be able to sell their power competitively in that market. The higher transmission rates will allow local generators to charge higher rates for energy.

**12. One issue that was not included in H.R. 2944, but which the Committee continues to receive many comments on, is the issue of cross-subsidization. In the attachment to your letter, NRECA notes that "Electric cooperatives may not, by law, cross-subsidize a subsidiary organization. . . .". Assuming this is correct, would NRECA have an objection to Congress restating this principle in Federal law? If so, please explain.**

While NRECA believes current law and regulation does adequately protect consumers we would support codifying RUS regulations, that prohibit cross-subsidization.

The following is quoted from a letter from Christopher A. McLean, acting administrator of RUS to the Honorable Ed Whitfield:

"[Rural electric Cooperatives] RECs are not permitted to use Rural Utilities Service (RUS) electric program loan funds for non-electric subsidiary businesses such as propane. RUS regulations governing the electric loan program are very specific as to the types of facilities that are eligible. 7 CFR 1710.106, Uses of

Loan Funds, specifies the types of facilities that may be financed with funds from loans made or guaranteed by the RUS. These include electric distribution, transmission, and generation facilities, ordinary replacements, warehouse and garage facilities, interest, and certain costs incurred in demand side management, energy conservation programs, and on and off grid renewable energy systems. Periodically the RUS Field Accountants perform compliance reviews of all borrowers who have received insured, guaranteed, or other funds under RUS control from the sale of property or other sources. These reviews are to ensure that funds loaned or guaranteed have been disbursed for proper Rural Electrification Act (RE Act), as amended (7 U.S.C. 912), purposes as approved by RUS."

In addition 501(c)(12) electric cooperatives are required to operate "at cost." That means that they cannot sell distribution or electric service for more than, or less than, the cost the cooperative incurs to provide the services. After providing for reasonable reserves, any margin a cooperative earns must be allocated to its consumers.

NRECA also supports fully allocating costs in accordance with the National Association of State Regulatory Utility Commissioners (NARUC) adopted Guidelines for Cost Allocations and Affiliate Transactions. This is a model for state regulators to use in prescribing how utilities should allocate costs and price the transfer of goods and services between utilities and their unregulated affiliates providing competitive services. NRECA participated in the development of the Guidelines and supported their adoption. A growing number of states are adopting these Guidelines.

NRECA will oppose any provision that places cross-subsidization tests or other cost allocation requirements (other than those directly related to RUS funds noted above) on cooperatives that are not equally applied to all other entities offering similar services.

**13. NRECA's comments indicate support for the expansion of the Renewable Energy Production Incentive program to address environmental concerns. Does NRECA believe any further environmental provisions should be included in Federal legislation? Does NRECA believe that industry restructuring will have a positive or negative impact on the environment.**

NRECA does not believe that restructuring legislation is the correct place in which to address environmental issues.

**14. At the Subcommittee markup, provisions requiring reciprocity for retail sales were eliminated from H.R. 2944. Does NRECA support inclusion of a retail reciprocity provision in a Federal bill?**

A national mandate inappropriately imposes rules on those individual States that believe their consumers interests are better preserved through open competition than through reciprocity requirements. In particular, mandatory reciprocity provisions can act as a back-door date certain. By prohibiting large, politically powerful, utilities from competing out of state unless they are subject to competition at home, reciprocity

provisions can create artificial political pressure on State legislatures to enact restructuring legislation even where it is not otherwise in the State's best interest.

**15. H.R. 2944 is silent with respect to privacy issues. What is NRECA's position on privacy issues?**

NRECA's membership consists of consumer-owned and governed private businesses. Since subcommittee actions involving H.R. 2944, NRECA has examined this issue carefully and does now have a position on this issue.

First, NRECA believes in the individuals right to privacy. Second, we oppose regulatory and legislative initiatives that would require cooperatives to disclose personally identifiable information about their members to third parties for non-essential or non-operational purposes. Proposals that would require cooperatives to disclose member lists or other individually identifiable information about members without their specific prior authorization may violate consumers' right to privacy.

Electric cooperatives have committed to protect their members' privacy and to speak out against abusive practices which includes the selling of their members' private information to generate profits.

**16. Does NRECA support the development of uniform interconnection standards? If not, why not? If so, what should those standards be?**

There are several types of uniform interconnection standards now being discussed in the industry: technical standards for the interconnection of distributed generation to the distribution system; business or tariff related standards for the interconnection of distributed generation to the distribution system; technical standards for the interconnection of new large generating units to the transmission grid; and business or tariff related standards for the interconnection of large generating units to the transmission grid. Uniform interconnection standards can be very helpful in each of these instances but there is no current need for Federal legislation to achieve those benefits.

The Institute of Electrical and Electronic Engineers (IEEE) is presently developing technical standards for the interconnection of distributed generation to the distribution system through a broadly-based stakeholder process. NRECA strongly supports that process. The IEEE has already issued draft standards and is likely to complete final standards within the next year. Most States will likely adopt all or large portions of those standards when they are completed.

The States are also in the process of developing business or tariff related standards for the interconnection of distributed generation to the distribution grid. New York and Texas have completed comprehensive rules and California, Ohio, and several

other States are well on their way. New York's and Texas' rules are very similar. Where they differ, the differences reflect legitimate differences between the States. The National Association of Regulatory Utility Commissioners (NARUC) is actively looking at distributed generation and interconnection issues and will likely develop model rules or other resources for the States that will ease and promote the development of uniform rules. NRECA is participating in that process.

The requirement in § 542 of H.R. 2944 that FERC develop interconnection standards for distributed generation is premature. It would likely preempt the efforts now pending before the IEEE and NARUC, and the tight deadline could require FERC to act before it or the industry fully understands the effects that developing distributed generation technologies will have on the safety and reliability of the interconnected grid.

Finally, the Federal Energy Regulatory Commission (FERC) is now addressing interconnection standards for larger generating units. On March 15 in Tennessee Power Co. v. Central Illinois Public Service Co. (FERC Docket No. EL00-12), the Commission clarified for the first time that generators do not have to sign transmission service agreements as a condition for interconnection and that Order No. 888's pro forma tariff provisions apply to interconnection requests. On April 25, the Commission then approved a revision to a Commonwealth Edison open access transmission tariff to include interconnection procedures for new generators (FERC Docket No. ER00-1820). Chairman Hoecker characterized the ComEd's interconnection procedures as "consumer-friendly accommodations," with Commissioner Massey observing the tariff as "a critical step on the road to a more rationale interconnection policy

The Electric Power Supply Association has pending at the Commission a request for development of a generic interconnection policy statement. That case is now pending and should not be disturbed by federal legislation. FERC has sufficient expertise and authority under existing law to address the issue without new Federal mandates or limitations on its discretion.

**17. How many rural cooperatives have opened their systems to retail competition? How many are planning to open their system within the next two years?**

Presently, 24 States have moved towards retail competition by legislation or regulation. However, the ability for all consumers, including residential consumers, to choose an alternative supplier now exists in only a few states, such as California, New York, Pennsylvania, Rhode Island, and Massachusetts. In a few other states, such as Montana and Illinois, choice is available for a small subset of customers, usually the largest electric customers. The other states that have enacted restructuring legislation are still in the process of writing the rules to implement it.

Choice is determined by the presence of marketers that compete for residential customers. By this standard there is not real choice in any state yet, if it is defined as a viable pool of competing suppliers for that state's residential consumers.

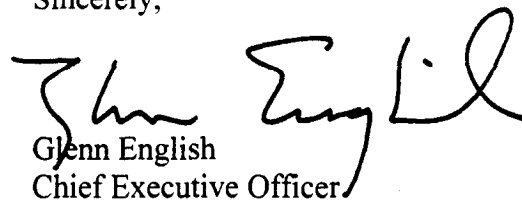
All of the cooperatives in Pennsylvania have opened their systems to retail choice, although to date none have seen alternative suppliers interested in competing for their

loads. The cooperatives in New York and California are exempt from their respective restructuring laws, although they have the choice to "opt in."

In those few states in which competition has actually been authorized, cooperatives are very active. All twelve cooperatives in Pennsylvania opened up their markets at the earliest possible date. Two cooperatives are participating in pilot programs in Virginia, your home state. Cooperatives in the remaining states are now evaluating whether competition will lower costs or provide other benefits for their members. NRECA is not privy to the strategic plans of all their individual members and their consumers, but many of them will likely choose to participate in competition soon.

Mr. Chairman, thank you for this opportunity to further clarify NRECA's position on these important issues. I am hopeful it portends an open and inclusive process that proved to be so successful in the Subcommittee on Energy and Power. NRECA will be happy to participate. Please call me if you have any questions, or if I can assist in any way.

Sincerely,



Glenn English  
Chief Executive Officer